

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

| | |
|--|--|
| <i>In re</i> DISTRIBUTION OF CABLE ROYALTY FUNDS | CONSOLIDATED DOCKET NO. 14-CRB-0010-CD/SD (2010-13) |
| <i>In re</i> DISTRIBUTION OF SATELLITE ROYALTY FUNDS | |

MOTION TO QUASH DISCOVERY REQUESTS OF MULTIGROUP CLAIMANTS

The Motion Picture Association of America, Inc. (“MPAA”), hereby moves to quash the discovery requests that Multigroup Claimants (“MGC”) served on MPAA in the Distribution Phase of the above-captioned proceedings on January 8 and 9, 2018 (“MGC Requests”). Copies of the MGC Requests and MPAA’s responses and objections to those requests (the “MPAA Objections”) are attached hereto as Exhibits 1 and 2, respectively.¹

INTRODUCTION AND SUMMARY

On December 29, 2017, MGC filed a pleading captioned as “Multigroup Claimants’ Written Direct Statement” in the Distribution Phase of this consolidated proceeding (“MGC December 29 Filing”). However, as MPAA and the Settling Devotional Claimants (“SDC”) explained in their January 9, 2018 Motion To Strike MGC’s Purported Written Direct Statement And Dismiss MGC From The Distribution Phase (“January 9 Motion”), the MGC December 29 Filing in fact was *not* a written direct statement because MGC failed to include the contents for written direct statements mandated by the Copyright Royalty Judges’ (“Judges”) regulations,

¹ This joint motion to quash is without prejudice to any of MPAA’s separate general and specific objections to the MGC Requests. MPAA reserves the right to raise any and all such general and specific objections as appropriate.

orders, or the Copyright Act. Specifically, the MGC December 29 Filing asserted arbitrary claims without evidentiary support, failed to incorporate the Judges’ October 23, 2017 *Ruling And Order Regarding Objections To Cable And Satellite Claims* (“Claims Order”), and failed to include a distribution methodology—in violation of the Judges’ regulations and orders in this proceeding. *See* January 9 Motion at 3-8. These failures are fatal to MGC’s claims, if any, in this proceeding, and warrant automatic dismissal of MGC from the Distribution Phase of this proceeding. *See* January 9 Motion at 8-10.

Under the Judges’ regulations and precedent, MGC’s failure to file a timely and compliant written direct statement constitutes procedural default, and precludes MGC from being an “opposing party” here. *See* 37 C.F.R. § 351.6; *see also* *Order Granting In Part Allocation Phase Parties’ Motion To Dismiss Multigroup Claimants And Denying Multigroup Claimants’ Motion For Sanctions Against Allocation Phase Parties* at 4 (August 11, 2017) (“August 11, 2017 Order”); *Amended Joint Order On Discovery Motions*, Docket Nos. 2012-6 CRB CD 2004-2009 (Phase II) and 2012-7 CRB SD 1999-2009 (Phase II) at 5-9 (July 30, 2014) (“July 30, 2014 Order”). As a result, MGC is not entitled to request or receive discovery from other parties, like MPAA, who are rightful participants in these proceedings.

Moreover, it is a fundamental requirement that the parties make their disclosures simultaneously, and it would be unfairly prejudicial to permit MGC to obtain a preview of other parties’ cases before presenting its own. Indeed, in the nearly four decades of copyright royalty distribution proceedings, MPAA is not aware of any instance where a party was allowed to participate and receive discovery in a proceeding if it did not file written testimony explaining, and supporting, its methodology on royalty distribution. Nor is MPAA aware of any instance where a party was permitted to sit on the sidelines of a distribution proceeding, watch other

parties submit their own testimonies and exhibits advocating a distribution methodology, and thereafter file its own testimonies and exhibits advocating a methodology for the first time in rebuttal, as MGC proposes to do in this proceeding. *See* MGC December 29 Filing, Testimony of Raul Galaz at 3-4. For all of these reasons, the Judges should quash the MGC Requests.

DISCUSSION

I. MGC Is Subject To Automatic Dismissal For Its Failure To File The Mandatory Written Direct Statement In This Proceeding.

Both the Copyright Act and the regulations mandate the filing of written direct statements in accordance with the Judges' scheduling orders, and set forth strict requirements for the contents of the written direct statements. *See* 37 C.F.R. 351.4(a)-(b); 17 U.S.C. § 803(b)(6)(C)(i) and (ii)(II); *see also* August 11, 2017 Order at 3. As the MPAA and SDC explained in their January 9 Motion, MGC intentionally disregarded these requirements by submitting a defective, placeholder pleading to the Judges on December 29, 2017 in lieu of a written direct statement. *See* January 9 Motion at 1-8. MGC's utter failure to submit timely and compliant written direct statements warrants automatic dismissal from these proceedings. *See id.* at 8-9 (citing August 11, 2017 Order at 4; *Order Granting Sound Exchange Motion To Dismiss Muzak LLC*, Docket No. 2006-1 CRB DSTRA (January 10, 2007); *Order Granting SoundExchange's Motion To Dismiss Persons And Entities That Did Not File A Written Direct Statement*, Docket No. 2005-1 CRB DTRA (January 20, 2006); *Order*, Docket No. 2000-9 CARP DTRA 1&2 (April 23, 2001)).²

² MGC's dismissal is also warranted for its persistent failure to comply with the Judges' regulations and orders in these proceedings. *See id.* at 9-11 (citing *Order*, Nos. 2001-8 CARP CD 98-99, *et al.*, at 6 (June 26, 2006).

II. MGC's Procedural Default In These Proceedings Bars It From Seeking Discovery As An Opposing Party.

As a party that is subject to automatic dismissal, and thus not entitled to participate at all in the Distribution Phase, MGC plainly has no right to discovery in that phase. Discovery is not a one-way street where a party may demand underlying documents from everyone else while insulating itself from the same demands by failing to submit its own royalty distribution methodology. Furthermore, Section 351.6 of the Judges' rules states that a party may request discovery only from "*an opposing party*." 37 C.F.R. § 351.6 (emphasis added). The Judges have held that the term "opposing party" should be construed functionally, taking into consideration whether a particular party advocates a position in the proceeding that, if adopted by the Judges, could function as a basis to reduce the recovery of the other party. July 30, 2014 Order at 7. But MGC, which did not file a written direct statement, has not presented a methodology in this proceeding at all, and cannot properly be considered an "opposing party" to any party in the Distribution Phase. Thus, under Section 351.6 of the Judges' rules, MGC is not entitled to discovery of underlying documents from any Distribution Phase party.

Denial of discovery also is statutorily-mandated. Section 803(b)(6)(C)(viii) of the Copyright Act provides: "The rules and practices in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, relating to discovery in proceedings under this chapter to determine the distribution of royalty fees, shall continue to apply to such proceedings on and after such effective date." 17 U.S.C. § 803(b)(6)(C)(viii). The CARP rules in effect prior to the CRDRA provided that only "opposing" parties may request discovery from each other. *See* 37 C.F.R. § 251.45(c)(1) (repealed) ("A Copyright Arbitration Royalty Panel shall designate a period following the filing of written direct and rebuttal cases with it in which parties may request of an opposing party nonprivileged underlying documents related to the

written exhibits and testimony.”). Moreover, the Librarian of Congress and Register of Copyrights adopted the practice in CARP proceedings of dismissing, and thus not permitting discovery by, any party who failed to file a written direct statement. *See Order*, Docket No. 2000-9 CARP DTRA 1&2 (April 23, 2001). Section 803(b)(6)(C)(viii) of the Copyright Act requires continuation of that practice as well.

Moreover, MGC is seeking to game the discovery process. By failing to file a timely and compliant written direct statement – in defiance of Judges’ rules and orders – MGC has denied MPAA the opportunity to seek discovery of underlying documents from MGC regarding its yet-to-be-disclosed methodology, while at the same time seeking to force MPAA to produce discovery related to its written direct statement filings. MGC is attempting to gain an unfair advantage by not disclosing its methodology at the same time as the other parties, failing to apply the Judges’ Claims Order to MGC’s claims, and asserting arbitrary claims without evidentiary support. This procedural advantage would be particularly unfair if MGC were granted access to discovery of MPAA’s documents underlying its written direct statement filings before MGC provides any compliant written direct statement of its own. MGC seeks to sandbag MPAA by obtaining disclosure of underlying documents related to its testimony, methodology, and claimed shares while withholding the substance of its own case. The Judges’ rules, by requiring simultaneous exchanges of written direct statements followed by a mutual discovery period, do not permit such gamesmanship and consequential prejudice to the parties who complied with the rules.

CONCLUSION

For the foregoing reasons, the Judges should grant the MPAA’s motion and quash the MGC Requests.

Respectfully submitted,

Dated: January 12, 2018

/s/ Gregory O. Olaniran

Gregory O. Olaniran
D.C. Bar No. 455784
Lucy Holmes Plovnick
D.C. Bar No. 488752
Alesha M. Dominique
D.C. Bar No. 990311
MITCHELL SILBERBERG & KNUPP LLP
1818 N Street N.W., 8th Floor
Washington, D.C. 20036
Telephone: (202) 355-7817
Fax: (202) 355-7887
goo@msk.com
lhp@msk.com
amd@msk.com

*Attorneys for MPAA-represented Program
Suppliers*

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of January, 2018, a copy of the foregoing pleading was provided to each of the parties on the attached service list, either electronically via the Copyright Royalty Judges' eCRB electronic filing system, or, for those parties not receiving service through eCRB, by Federal Express overnight mail.

/s/ *Lucy Holmes Plovnick*
Lucy Holmes Plovnick

SERVICE LIST

JOINT SPORTS CLAIMANTS

Robert Alan Garrett
Sean Laane
Michael Kientzle
Bryan L. Adkins
ARNOLD & PORTER LLP
601 Massachusetts Avenue, N.W.
Washington, D.C. 20001

SETTLING DEVOTIONAL CLAIMANTS

Matthew J. MacLean
Michael A. Warley
Jessica T. Nyman
PILLSBURY WINTHROP
SHAW PITTMAN LLP
1200 Seventeenth Street NW
Washington, DC 20036

SETTING DEVOTIONAL CLAIMANTS/PROFESSIONAL BULL RIDERS

Arnold P. Lutzker
Benjamin Sternberg
LUTZKER & LUTZKER LLP
1233 20th Street, NW
Suite 703
Washington, DC 20036

PUBLIC TELEVISION CLAIMANTS

Ronald G. Dove, Jr.
Lindsey Tonsager
Dustin Cho
COVINGTON & BURLING LLP
One City Center
850 10th Street NW
Washington, DC 20001

COMMERCIAL TELEVISION CLAIMANTS

NATIONAL ASSOCIATION OF BROADCASTERS

John I. Stewart, Jr.
Ann Mace
David Ervin
CROWELL & MORING LLP
1001 Pennsylvania Ave., NW
Washington, DC 20004-2595

MUSIC CLAIMANTS

AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS

Samuel Mosenkis
Jackson Wagener
ASCAP
One Lincoln Plaza
New York, NY 10023

BROADCAST MUSIC, INC.

Joseph J. DiMona
BROADCAST MUSIC, INC.
7 World Trade Center
250 Greenwich Street
New York, NY 10007-0030

Brian Coleman
Jennifer T. Criss
DRINKER BIDDLE & REATH LLP
1500 K Street, NW – Suite 1100
Washington, DC 20005

SESAC, INC.

John C. Beiter
LEAVENS, STRAND & GLOVER LLC
1102 17th Avenue South
Suite 306
Nashville, TN 37212

CANADIAN CLAIMANTS

L. Kendall Satterfield
SATTERFIELD PLLC
1629 K Street NW, Suite 300
Washington, DC 20006

Victor Cosentino
LARSON & GASTON LLP
200 S. Los Robles Avenue, Suite 530
Pasadena, CA 91101

MULTIGROUP CLAIMANTS SPANISH LANGUAGE PRODUCERS

Brian D. Boydston
PICK & BOYDSTON LLP
10786 Le Conte Avenue
Los Angeles, CA 90024

NATIONAL PUBLIC RADIO

Jonathan D. Hart
Gregory A. Lewis
NATIONAL PUBLIC RADIO
1111 North Capitol Street, NE
Washington, DC 20002

MAJOR LEAGUE SOCCER

Edward S. Hammerman
HAMMERMAN PLLC
5335 Wisconsin Ave., Suite 440
Washington, DC 20015-2054

EXHIBIT 1

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

| | | |
|-------------------------|---|-------------------------|
| <i>In re</i> |) | |
| Distribution of |) | |
| Cable Royalty Funds |) | Consolidated Docket No. |
| _____ |) | 14-CRB-0010-CD/SD |
| |) | (2010-2013) |
| <i>In re</i> |) | |
| Distribution of |) | |
| Satellite Royalty Funds |) | |
| _____ |) | |

**MULTIGROUP CLAIMANTS’ DOCUMENT REQUESTS
UPON MPAA-REPRESENTED PROGRAM SUPPLIERS**

A. Introduction and Definitions.

Pursuant to the Copyright Royalty Board Regulations, 37 C.F.R. Section 351.6, Multigroup Claimants (“MC”) hereby requests that the MPAA-Represented Program Suppliers (“MPAA”) produce for inspection and copying documents related to the Written Direct Statement of MPAA-Represented Program Suppliers, filed on December 29, 2017, on or before January 15, 2018. These requests shall be deemed continuing to the final decision of the Copyright Royalty Board in these proceedings and supplementation of the MPAA’s responses is hereby requested to the maximum extent of the rules of this tribunal.

For purposes of this request, the term “document” is defined as including writings, recordings, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through

detection devices into reasonably usable form. Any data or information utilized by respondent and capable of electronic manipulation should be produced in electronic format. Writings and recordings, in particular, shall include, without limitation, all forms of electronic communication, including but not limited to electronic mail. A draft or non-identical copy is a separate document within the meaning of this term. Also, for purposes of these document requests, when we refer to (1) “Exhibit” we are referencing the MPAA’s Exhibits to its Written Direct Statement, and (2) “MPAA” we intend to include Motion Picture Association of America and any MPAA-represented claimant.

In addition, these requests are subject to the following definitions and instructions:

1. If no responsive documents exist, indicate “No responsive documents”.
2. If documents requested are not available in exactly the form requested, furnish carefully prepared estimates designated as such, or indicate that the documents cannot be obtained, and explain the reason that the documents cannot be obtained. When information is supplied pursuant to this instruction, explain why the information is being supplied in a form different from that requested.
3. If you do not produce any document or any information relating to any document, or if you withhold any document because of a claim of privilege, set forth the privilege claimed, the facts on which you rely to support the claimed privilege, and furnish a list identifying each document or thing for which privilege is claimed, together with the information as to each such document or thing required.
4. When a requested document has been destroyed, is alleged to have been destroyed, or

exists but is no longer in your possession, custody, or control, state (a) its date of creation; (b) the name(s) and title(s) of its author(s), sender(s), and recipient(s) of the document; (c) the reason for its destruction, disposition, or non-availability; (d) person(s) having knowledge of its destruction, disposition, or non-availability; and (e) the person(s) responsible for its destruction, disposition, or non-availability.

5. These requests are intended to reach all requested documents and things to the extent permissible under the Copyright Royalty Board regulations, and requests should be construed to be inclusive rather than exclusive.

6. When responding, identify each discovery request by number and letter and specifically identify the documents that are being provided that are responsive to the request.

B. MC requests the following documents:

Allocation Proceedings for 2010-2013 Cable and Satellite Royalties

1) All documents produced by any party to the 2010-2013 cable or satellite royalty allocation proceedings, including but not limited to the MPAA, Settling Devotional Claimants, Joint Sports Claimants, Canadian Claimants Group, Commercial Television Claimants Group, and the Public Television Claimants.

Written Direct Statement

2) Any and all documents reflecting agreements entered into between the MPAA, on the one hand, and either Jane Saunders, Paul Lindstrom, Jeffrey Gray, Jonda Martin, Cable Data Corporation, Nielsen Media Research, Marsha Kessler, or Alex Paen, on the other hand.

3) Any and all documents supporting the MPAA's claim to between 99.37% and 99.50% of the 2010-2013 cable royalties, depending on the royalty year at issue.

4) Any and all documents reflecting the substance of footnote 12 of the Written Direct Statement, i.e., documents reflecting the allocation of royalties to NAB-claimed titles.

5) Any and all documents on which any differences between the MPAA's written direct statement filed on June 30, 2017 and the version filed on December 29, 2017, are based.

Testimony of Jane Saunders

6) Any and all documents relied on by Jane Saunders in order to form the statements and opinions expressed in her testimony, and all documents undermining such statements and opinions.

Any and all documents underlying or used to support the following statements:

7) "I serve as Senior Vice-President, Rights Management Policy and Relations . . . at the Motion Picture Association of America."

8) "I represent MPAA and its member companies on the boards of various collective management organization, including AGICOA . . . GWFF USA . . . CAB and FilmKopi . . . and the Copyright Collective of Canada."

9) "I am a member, with inactive status, of the Georgia State and District of Columbia Bar Associations."

10) "In Canada, I am responsible for all of the operations of MPAA's retransmission royalty program via the Copyright Collective of Canada ("CCC"), including supervision of CCC staff . . ."

11) "The lists of MPAA-represented Program Suppliers asserting claims to Section 111 royalties in this proceeding are set forth in Appendix A."

12) "MPAA directly represented approximately 100 claimants in each royalty year at issue."

13) "MPAA directly and indirectly represents . . . 6,200 to 9,400 claimants per royalty year."

14) "Appendix A is limited to only the particular MPAA-represented Program Suppliers who have certified their authority to collect retransmission royalties for programming that is compensable in this proceeding."

15) "This list includes between 238 and 543 MPAA-represented claimants per royalty year."

16) "[Appendix B] includes an average of 2,600 unique titles for each of the four years in question, for a total of more than 10,000 MPAA-claimed titles for the four year period."

17) "To be a MPAA-represented claimant, a rights holder must satisfy the following

requirements: (1) file a timely claim for retransmission royalties each year with the Copyright Office”

18) “To be a MPAA-represented claimant, a rights holder must satisfy the following requirements: . . (2) provide MPAA with an ‘as-filed’ copy of that claim demonstrating that it was submitted to the Office in a timely manner”

19) “To be a MPAA-represented claimant, a rights holder must satisfy the following requirements: . . . (3) have a valid representation agreement with MPAA, or be a party to a joint claim filed by an agent represented by MPAA.”

20) “All of the MPAA-represented claimants listed on Appendix A to my testimony satisfied these requirements”

21) “MPAA has developed an electronic Royalty Management System (“RMS”) that provides MPAA with an efficient means of managing its royalty distribution process The list of MPAA-represented claimants’ titles in Appendix B of my testimony were all subject to MPAA’s internal royalty distribution processes. ”

22) “The list of the transferred NAB-claimed titles is attached to my testimony as Appendix C.”

23) “[In] Europe and Canada . . . viewing of programs is the predominant metric used to distribute retransmission royalties paid by cable and satellite operators to producers, such as the MPAA members.”

24) “Viewing is the metric relied upon by the Canadian Copyright Board (“CCB”), a body comparable in mission to the Judges, to allocate shares of total royalties paid by retransmitters among the Canadian collectives.”

25) “[O]ne or more of the claiming collective societies, which represent the rights holders, submit individually or jointly (depending on the royalty year period in question) viewing studies to the CCB.”

26) “These studies are based upon viewing datafor broadcast events during a given royalty year, obtained through a monitoring organization called BBM Canada, and other metrics to winnow out distant subscriber viewing of the various audiovisual works claimed by each collective.”

27) “The CCB has relied on these viewing studies to allocate the collected royalties for many years.”

Related Documents.

- 28) Any and all documents establishing that the “MPAA-Represented Program Supplier Claimants” are comprised of the entities identified at Appendix A.
- 29) Any and all documents relating to the MPAA’s right to file a Petition to Participate in this proceeding.
- 30) Any and all Claims filed by the entities identified at Appendix A.
- 31) Any and all documents establishing the existence of broadcasts cited in Claims made by entities identified at Appendix A.
- 32) Any and all documents showing any asset transfers, agency or assignments amongst MPAA entities or with third parties with respect to any Claim.
- 33) Any and all correspondence amongst MPAA entities regarding any Claim in this proceeding.
- 34) Any and all documents demonstrating the full legal name of the entities identified at Appendix A.
- 35) Any and all agreements or documents demonstrating the MPAA’s entitlement to represent the interests in these proceedings of any entity identified at Appendix A.
- 36) Any and all documents reflecting which entities identified at Appendix A are making claim for which programs appearing in Appendix B.
- 37) Any and all documents reflecting the MPAA’s investigation into the entitlement of entities identified at Appendix A to make claim for royalties attributable to the programs appearing in Appendix B.
- 38) Any and all documents summarizing the methods for distributing royalties utilized by the Canadian Copyright Board.
- 39) Any and all documents summarizing the methods for distributing royalties utilized by AGICOA.
- 40) Any and all documents summarizing the methods for distributing royalties utilized by GWFF USA.
- 41) Any and all documents summarizing the methods for distributing royalties utilized by CAB.
- 42) Any and all documents summarizing the methods for distributing royalties utilized by the

FilmKopi.

43) Any and all documents summarizing the methods for distributing royalties utilized by the Copyright Collective of Canada.

Any and all documents underlying or used to create the following exhibits:

44) Appendix A.

45) Appendix B.

46) Appendix C.

Testimony of Paul Lindstrom

47) Any and all documents relied on by Paul Lindstrom in order to form the statements and opinions expressed in his testimony, and all documents undermining such statements and opinions.

Any and all documents underlying or used to support the following statements:

48) “Nielsen designed, for MPAA, custom analyses of national household metered viewing data for each of the 2010-2013 years.”

49) “Dr. Gray supplied Nielsen with a list of his sample stations for each of the 2010-2013 cable royalty years.”

50) “I understand that Dr. Gray relied on data from Cable Data Corporation (“CDC”) in order to select the stations in his samples for each year.”

51) “Based on county analyses it performed, CDC provided Nielsen with the identity of the counties considered local to each station in Dr. Gray’s samples.”

52) “For the 2010-2013 cable custom analyses, Nielsen eliminated all non-cable viewing of programs for Dr. Gray’s sample stations.”

53) “Further, it separated all viewing to each station into two categories—viewing that occurred within the station’s local area (as determined by CDC’s county analyses) and viewing that occurred outside the station’s local area.”

54) “Nielsen then provided a report to Dr. Gray separately identifying both local viewing and distant viewing among cable households for the stations in Dr. Gray’s 2010-2013 samples. This was reported in the form of quarter hours of viewing by households.”

55) “The appearance of these “zero viewing” instances is consistent with what I would expect to find in a custom analysis of viewing to distant signals by cable subscribers.”

56) “Where the viewing minutes to particular distant signal programs were so small as to be statistically insignificant, Nielsen’s custom analysis would assign a zero viewing value.”

Related Documents

57) The “2010-2013 household meter data”, and any documents underlying the creation thereof.

58) The “2010-2013 cable custom analyses”, and any documents underlying the creation thereof.

Testimony of Jeffrey Gray

59) Any and all documents relied on by Jeffrey Gray in order to form the statements and opinions expressed in his testimony, and all documents undermining such statements and opinions.

Any and all documents underlying or used to support the following statements:

60) “I have been engaged by cable system operators to analyze the content and viewership of certain channels”

61) “[Cable system operator and satellite carriers] face the same economic motivations in attempting to attract and maintain subscribers.”

62) “I assume that none of MC’s claims are valid.”

63) “The number of retransmitted minutes provides a rough measure of the relative economic value of programming because it provides a quantification of CSO purchases, though in a regulated setting.”

- 64) “The most direct and reasonable approach to measuring the extent to which CSO subscribers value programming is viewership.”
- 65) “I calculated all shares of total program volume (i.e., based on minutes of airtime) and shares of program viewing based on a random selection of distant signal channels each year from 2010 to 2013.”
- 66) “MPAA-represented compensable programs accounted for 97.83%-98.91% of total program volume in the Program Suppliers category over the years 2010-2013.”
- 67) “MPAA-represented compensable programs accounted for 99.37%-99.50% of total program viewing in the Program Suppliers category over the years 2010-2013.”
- 68) “[E]ven though CSOs are the buyers of the programming bundles, a reasonable measure of the relative market value of a retransmitted program is the relative level of subscriber viewing of that program.”
- 69) “CSOs want to carry stations with high viewership programming such as off-network syndicated television series that originally attracted a loyal following in their network runs and continue to do so in syndication.”
- 70) “They also desire to carry stations with high viewership programming, such as first-run syndicated programs that they believe will garner satisfactory audience levels.”
- 71) “[C]able networks routinely analyze viewing levels because they understand that this measure is the best available indicator of what attracts and retains subscribers.”
- 72) “I apply a two-step approach: . . . First, I calculate measures of the relative volume of each party’s claimed programming.”
- 73) “I apply a two-step approach: . . . Second, I calculate the relative viewership of each party’s claimed programming.”
- 74) “I rely upon Nielsen viewing data, Gracenote, Inc. (“Gracenote”) programming data, and Canadian Radio-television and Telecommunications Commission (“CRTC”) program logs, to study the volume and viewing information of compensable programs from 2010 through 2013. Also, I rely upon Cable Data Corporation (“CDC”) carriage data, which provides information about stations carried by cable systems.”
- 75) “I selected a sample of stations from the universe of stations provided by CDC

based on a stratified random sampling methodology.”

76) “I rely on Nielsen Local and Distant Viewing Household Data for 2010-2013 (“Nielsen Viewing Data”).”

77) “As a part of my analysis, I excluded as non-compensable programs airing on WGN’s local feed (“WGN”) that were not simultaneously broadcast on WGN’s national feed (“WGNA”).”

78) “Also, I excluded all programs broadcasted on ABC, CBS, and NBC networks because network programs are non-compensable for present purposes.”

79) “Based on the CDC data, there were over 1,000 stations that were distantly retransmitted by CSOs each year from 2010 to 2013.”

80) “Across the four samples there were 609 station-year combinations with 384 unique stations.”

81) “I combined and analyzed the various datasets described above to calculate the levels of volume and viewership of programming represented by MPAA and MC.”

82) “From 2010 to 2013, between 4.0 million and 6.5 million compensable MPAA-represented programs aired on stations retransmitted by CSOs.”

83) “This programming consisted of between approximately 158.6 million and 245.6 million retransmitted minutes of compensable programming.”

84) “In contrast, over the same years, between 43.5 thousand and 94.7 thousand compensable MC-represented programs aired on stations retransmitted by CSOs.”

85) “This programming consisted of between 1.7 million and 5.5 million retransmitted minutes of compensable programming.”

86) “[T]here are many instances of no recorded distant viewing of compensable retransmitted programs in the Nielsen Viewing Data.”

87) “I applied multiple regression analysis techniques to all distantly retransmitted programs.”

88) “The regressions demonstrate that there is a positive and statistically significant

relationship between local ratings and distant viewing.”

89) “I calculated each party’s share of total distant viewing as the sum of estimated distant viewing of that party’s programs divided by the sum of estimated distant viewing of all valid MPAA and MC retransmitted programming.”

Related Documents

- 90) Nielsen viewing data.
- 91) Gracenote, Inc. programming data.
- 92) Canadian Radio-television and Telecommunications Commission program logs.
- 93) Cable Data Corporation carriage data.

Any and all documents underlying or used to create the following exhibits:

- 94) Table 1.
- 95) Table 2.
- 96) Appendix B.
- 97) Appendix C, Table C-1.
- 98) Appendix C, Table C-2.
- 99) Appendix C, Table C-3.
- 100) Appendix C, Table C-4.
- 101) Appendix C, Table C-5.
- 102) Appendix C, Table C-6.
- 103) Appendix C, Table C-7.
- 104) Appendix C, Table C-8.
- 105) Appendix C, Table C-9.

Testimony of Jonda Martin

106) Any and all documents relied on by Jonda Martin in order to form the statements and opinions expressed in her testimony, and all documents undermining such statements and opinions.

Any and all documents underlying or used to support the following statements:

107) “CDC provided MPAA with a set of customized data reports for each of the 2010-2013 cable royalty years.”

108) “After Dr. Gray selected sample stations for each of the 2010-2013 cable royalty years, MPAA’s counsel sent the lists of Dr. Gray’s sample stations to CDC.”

109) “CDC then analyzed each of these stations in order to determine which counties fell within the station’s local service area.”

110) “[F]irst, we identified the counties that constituted each station’s Designated Market Area (“DMA”). “

111) “Second, we identified the counties in which each station was deemed “significantly viewed” per the FCC.”

112) “Lastly, we looked at other factors that would qualify a county as local to the station in question.”

113) “CDC used multiple criteria to identify local counties for the Canadian stations in the sample.”

114) “Once CDC completed the local county analysis, I sent the results MPAA’s counsel.”

Any and all documents underlying or used to create the following exhibits:

115) Appendix A.

Dated: January 8, 2018

_____/s/_____
Brian D. Boydston, Esq.
California State Bar No. 155614

PICK & BOYDSTON, LLP

10786 Le Conte Ave.
Los Angeles, California 90024
Telephone: (213) 624-1996
Facsimile: (213) 624-9073
Email: brianb@ix.netcom.com

Attorneys for Multigroup Claimants

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of January, 2018, a copy of the foregoing was sent by electronic mail to the parties listed on the attached Service List.

_____/s/_____
Brian D. Boydston, Esq.

MPAA-REPRESENTED PROGRAM SUPPLIERS

Gregory O. Olaniran, Esq.
MITCHELL SILBERBERG & KNUPP LLP
1818 n Street N.W., 8th Floor
Washington, DC 20036
Tel: 202-355-7817
goo@msk.com; lh@msk.com

NATIONAL ASSOCIATION OF BROADCASTERS BROADCASTER CLAIMANTS GROUP

John I. Stewart, Esq.
CROWELL & MORING LLP
1001 Pennsylvania Avenue NW
Washington, DC 20004
Tel: 202-6242-2685
jstewart@crowell.com

CANADIAN CLAIMANTS GROUP

L. Kendall Satterfield, Esq.
SATTERFIELD PLLC
1629 K Street, NW, St 300
Washington, DC 20006
Tel: 202-337-8000
lksatterfield@satterfield-pllc.com

Victor Cosentino
LARSON & GATSON LLP
200 S. Robles Ave., Suite 530

Pasadena, CA 91101
Tel: 626-795-6001
Victor.cosentino@larsongaston.com

SETTLING DEVOTIONAL CLAIMANTS

Arnold P. Lutzker, Esq.
LUTZKER & LUTZKER LLP
1233 20th Street, NW , Suite 703
Washington, DC 20036
Tel: 202-408-7600
arnie@lutzker.com

Clifford M. Harrington, Esq.
Matthew MacLean, Esq.
PILSBURY WINTHROP SHAW PITTMAN LLP
1200 Seventeenth Street NW
Washington, DC 20036
Matthew.maclean@pillsburylaw.com
clifford.harrington@pillsburylaw.com

JOINT SPORTS CLAIMANTS

Robert Alan Garrett
ARNOLD AND PORTER LLP
601 Massachusetts Ave., NW
Washington, DC 20001
Tel: 202-942-5000
Robert.garrett@apks.com; sean.laane@apks.com; Michael.kientzle@apks.com

Michael J. Mellis
OFFICE OF THE COMMISSIONER OF BASEBALL
245 Park Avenue
New York, NY 10167
Tel: 212-931-7800
Mike.Mellis@mlb.com

Phillip R. Hochberg, Esq.
LAW OFFICES OF PHILLIP R. HOCHBERG
12505 Park Potomac Avenue, 6th Floor
Potomac, MD 20854

Tel: 301-230-6572
phochberg@shulmanrogers.com

Ritchie T. Thomas, Esq.
SQUIRE PATTON BOGGS
2550 M Street Northwest
Washington, DC 20037
Tel: 202-457-6000
Ritchie.thomas@squirepb.com

PUBLIC BROADCASTING
Covington & Burlington, LLP
Ronald G. Dove, Jr., Esq.
One City Center
850 Tenth Street, NW
Washington, D.C., 20001-4956

Email: rdove@cov.com
ltonsager@cov.com
dcho@cov.com

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

| | | |
|-------------------------|---|-------------------------|
| <i>In re</i> |) | |
| Distribution of |) | |
| Cable Royalty Funds |) | Consolidated Docket No. |
| _____ |) | 14-CRB-0010-CD/SD |
| |) | (2010-2013) |
| <i>In re</i> |) | |
| Distribution of |) | |
| Satellite Royalty Funds |) | |
| _____ |) | |

**MULTIGROUP CLAIMANTS’ SECOND SET OF DOCUMENT REQUESTS
UPON MPAA-REPRESENTED PROGRAM SUPPLIERS**

A. Introduction and Definitions.

Pursuant to the Copyright Royalty Board Regulations, 37 C.F.R. Section 351.6, Multigroup Claimants (“MC”) hereby requests that the MPAA-Represented Program Suppliers (“MPAA”) produce for inspection and copying documents related to the Written Direct Statement of MPAA-Represented Program Suppliers pertaining to 2010-2013 satellite royalties, filed on December 29, 2017, on or before January 16, 2018. These requests shall be deemed continuing to the final decision of the Copyright Royalty Board in these proceedings and supplementation of the MPAA’s responses is hereby requested to the maximum extent of the rules of this tribunal.

For purposes of this request, the term “document” is defined as including writings, recordings, drawings, graphs, charts, photographs, phonorecords, and other data compilations

from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form. Any data or information utilized by respondent and capable of electronic manipulation should be produced in electronic format. Writings and recordings, in particular, shall include, without limitation, all forms of electronic communication, including but not limited to electronic mail. A draft or non-identical copy is a separate document within the meaning of this term. Also, for purposes of these document requests, when we refer to (1) “Exhibit” we are referencing the MPAA’s Exhibits to its Written Direct Statement, and (2) “MPAA” we intend to include Motion Picture Association of America and any MPAA-represented claimant.

In addition, these requests are subject to the following definitions and instructions:

1. If no responsive documents exist, indicate “No responsive documents”.
2. If documents requested are not available in exactly the form requested, furnish carefully prepared estimates designated as such, or indicate that the documents cannot be obtained, and explain the reason that the documents cannot be obtained. When information is supplied pursuant to this instruction, explain why the information is being supplied in a form different from that requested.
3. If you do not produce any document or any information relating to any document, or if you withhold any document because of a claim of privilege, set forth the privilege claimed, the facts on which you rely to support the claimed privilege, and furnish a list identifying each document or thing for which privilege is claimed, together with the information as to each such document or thing required.

4. When a requested document has been destroyed, is alleged to have been destroyed, or exists but is no longer in your possession, custody, or control, state (a) its date of creation; (b) the name(s) and title(s) of its author(s), sender(s), and recipient(s) of the document; (c) the reason for its destruction, disposition, or non-availability; (d) person(s) having knowledge of its destruction, disposition, or non-availability; and (e) the person(s) responsible for its destruction, disposition, or non-availability.

5. These requests are intended to reach all requested documents and things to the extent permissible under the Copyright Royalty Board regulations, and requests should be construed to be inclusive rather than exclusive.

6. When responding, identify each discovery request by number and letter and specifically identify the documents that are being provided that are responsive to the request.

B. MC requests the following documents:

Written Direct Statement

116) Any and all documents supporting the MPAA's claim to between 99.52% and 99.89% of the 2010-2013 satellite royalties, depending on the royalty year at issue.

Testimony of Jane Saunders

117) Any and all documents relied on by Jane Saunders in order to form the statements and opinions expressed in her testimony, and all documents undermining such statements and opinions.

Any and all documents underlying or used to support the following statements:

118) "The lists of MPAA-represented Program Suppliers asserting claims to Section 111

royalties in this proceeding are set forth in Appendix A.

119) “MPAA directly represented approximately 100 claimants in each royalty year at issue.”

120) “MPAA directly and indirectly represents . . . 2,900 and 6,000 claimants per royalty year.”

121) “Appendix A is limited to only the particular MPAA-represented Program Suppliers who have certified their authority to collect retransmission royalties for programming that is compensable in this proceeding.”

122) “This list includes between 217 and 332 MPAA-represented claimants per royalty year.”

123) “[Appendix B] includes an average of 2,200 unique titles for each of the four years in question, for a total of more than 8,900 MPAA-claimed titles for the four year period.”

124) “To be a MPAA-represented claimant, a rights holder must satisfy the following requirements: (1) file a timely claim for retransmission royalties each year with the Copyright Office”

125) “To be a MPAA-represented claimant, a rights holder must satisfy the following requirements: . . (2) provide MPAA with an ‘as-filed’ copy of that claim demonstrating that it was submitted to the Office in a timely manner”

126) “To be a MPAA-represented claimant, a rights holder must satisfy the following requirements: . . (3) have a valid representation agreement with MPAA, or be a party to a joint claim filed by an agent represented by MPAA.”

127) “All of the MPAA-represented claimants listed on Appendix A to my testimony satisfied these requirements”

128) “MPAA has developed an electronic Royalty Management System (“RMS”) that provides MPAA with an efficient means of managing its royalty distribution process The list of MPAA-represented claimants’ titles in Appendix B of my testimony were all subject to MPAA’s internal royalty distribution processes. ”

Related Documents.

129) Any and all documents establishing that the “MPAA-Represented Program Supplier Claimants” are comprised of the entities identified at Appendix A.

130) Any and all documents relating to the MPAA’s right to file a Petition to Participate in this proceeding.

- 131) Any and all Claims filed by the entities identified at Appendix A.
- 132) Any and all documents establishing the existence of broadcasts cited in Claims made by entities identified at Appendix A.
- 133) Any and all documents showing any asset transfers, agency or assignments amongst MPAA entities or with third parties with respect to any Claim.
- 134) Any and all correspondence amongst MPAA entities regarding any Claim in this proceeding.
- 135) Any and all documents demonstrating the full legal name of the entities identified at Appendix A.
- 136) Any and all agreements or documents demonstrating the MPAA's entitlement to represent the interests in these proceedings of any entity identified at Appendix A.
- 137) Any and all documents reflecting which entities identified at Appendix A are making claim for which programs appearing in Appendix B.
- 138) Any and all documents reflecting the MPAA's investigation into the entitlement of entities identified at Appendix A to make claim for royalties attributable to the programs appearing in Appendix B.

Any and all documents underlying or used to create the following exhibits:

- 139) Appendix A.
- 140) Appendix B.
- 141) Appendix C.

Testimony of Paul Lindstrom

- 142) Any and all documents relied on by Paul Lindstrom in order to form the statements and opinions expressed in his testimony, and all documents undermining such statements and opinions.

Any and all documents underlying or used to support the following statements:

- 143) "Nielsen designed, for MPAA, custom analyses of national household metered viewing

data for each of the 2010-2013 years.”

144) “Dr. Gray supplied Nielsen with a list of his sample stations for each of the 2010-2013 satellite royalty years.”

145) “I understand that Dr. Gray relied on data from Cable Data Corporation (“CDC”) in order to select these satellite stations for each year.”

146) “Based on county analyses it performed, CDC provided Nielsen with the identity of the counties considered local to each station in Dr. Gray’s samples.”

147) “For the 2010-2013 satellite custom analyses, Nielsen eliminated all non-satellite viewing of programs for Dr. Gray’s sample stations.”

148) “Further, it separated all viewing to each station into two categories—viewing that occurred within the station’s local area (as determined by CDC’s county analyses) and viewing that occurred outside the station’s local area.”

149) “Nielsen then provided a report to Dr. Gray separately identifying both local viewing and distant viewing among satellite households for Dr. Gray’s 2010-2013 satellite stations. This was reported in the form of quarter hours of viewing by households.”

150) “The appearance of these “zero viewing” instances is consistent with what I would expect to find in a custom analysis of viewing to distant signals by satellite subscribers.”

151) “Where the viewing minutes to particular distant signal programs were so small as to be statistically insignificant, Nielsen’s custom analysis would assign a zero viewing value.”

Related Documents

152) The “2010-2013 household meter data”, and any documents underlying the creation thereof.

153) The “2010-2013 satellite custom analyses”, and any documents underlying the creation thereof.

Testimony of Jeffrey Gray

154) Any and all documents relied on by Jeffrey Gray in order to form the statements and opinions expressed in his testimony, and all documents undermining such statements and opinions.

Any and all documents underlying or used to support the following statements:

155) “[Satellite carriers and CSOs] face the same economic motivations in attempting to attract and maintain subscribers.”

156) “The number of retransmitted minutes provides a rough measure of the relative economic value of programming because it provides a quantification of satellite carriers’ purchases, though in a regulated setting.”

157) “The most direct and reasonable approach to measuring the extent to which CSO subscribers value programming is viewership.”

158) “I calculated all shares of total program volume (i.e., based on minutes of airtime) and shares of program viewing based on stations carried by satellite stations each year from 2010 to 2013.”

159) “MPAA-represented compensable programs accounted for 99.33%-99.44% of total program volume in the Program Suppliers category over the years 2010-2013.”

160) “MPAA-represented compensable programs accounted for 99.52%-99.89% of total program viewing in the Program Suppliers category over the years 2010-2013.”

161) “[E]ven though satellite carriers are the buyers of the programming bundles, a reasonable measure of the relative market value of a retransmitted program is the relative level of subscriber viewing of that program.”

162) “[S]atellite carriers want to carry stations with high viewership programming such as off-network syndicated television series that originally attracted a loyal following in their network runs and continue to do so in syndication.”

163) “They also desire to carry stations with high viewership programming, such as first-run syndicated programs that they believe will garner satisfactory audience levels.”

164) “[C]able networks routinely analyze viewing levels because they understand that this measure is the best available indicator of what attracts and retains subscribers.”

165) “I apply a two-step approach: . . . First, I calculate measures of the relative volume

of each party's claimed programming."

166) "I apply a two-step approach: . . . Second, I calculate the relative viewership of each party's claimed programming."

167) "I rely upon Nielsen viewing data, Gracenote, Inc. ("Gracenote") programming data to study the volume and viewing information of compensable programs from 2010 through 2013. Also, I rely upon Cable Data Corporation ("CDC") carriage data, which provides information about stations carried by satellite systems."

168) "I rely on Nielsen Local and Distant Viewing Household Data for 2010-2013 ("Nielsen Viewing Data")."

169) "As a part of my analysis, I excluded as non-compensable programs airing on WGN's local feed ("WGN") that were not simultaneously broadcast on WGN's national feed ("WGNA")."

170) "Based on the CDC data, there were a total of between 82 and 143 stations that were distantly retransmitted by satellite carriers each year from 2010 to 2013."

171) "I combined and analyzed the various datasets described above to calculate the levels of volume and viewership of programming represented by MPAA and MC."

172) "From 2010 to 2013, between 607 thousand and 1.1 million compensable MPAA-represented programs aired on stations retransmitted by CSOs."

173) "This programming consisted of between approximately 27.1 million and 49.4 million retransmitted minutes of compensable programming."

174) "In contrast, over the same years, only between 2.6 thousand and 7.9 thousand compensable MC-represented programs aired on stations retransmitted by CSOs."

175) "This programming consisted of between 151.7 thousand and 334.0 thousand retransmitted minutes of compensable programming."

176) “[T]here are many instances of no recorded distant viewing of compensable retransmitted programs in the Nielsen Viewing Data.”

177) “I applied multiple regression analysis techniques to all distantly retransmitted programs.”

178) “The regressions demonstrate that there is a positive and statistically significant relationship between local ratings and distant viewing.”

179) “MPAA and MC’s share of total distant viewing is the sum of estimated distant viewing of that party’s programs divided by the sum of estimated distant viewing of all valid MPAA and MC retransmitted programming.”

Related Documents

180) Nielsen viewing data.

181) Gracenote, Inc. programming data.

182) Cable Data Corporation carriage data.

Any and all documents underlying or used to create the following exhibits:

183) Table 1.

184) Table 2.

185) Appendix B.

186) Appendix C, Table C-1.

187) Appendix C, Table C-2.

188) Appendix C, Table C-3.

189) Appendix C, Table C-4.

190) Appendix C, Table C-5.

191) Appendix C, Table C-6.

192) Appendix C, Table C-7.

193) Appendix C, Table C-8.

194) Appendix C, Table C-9.

Testimony of Jonda Martin

195) Any and all documents relied on by Jonda Martin in order to form the statements and opinions expressed in her testimony, and all documents undermining such statements and opinions.

Any and all documents underlying or used to support the following statements:

196) “CDC provided MPAA with a set of customized data reports for each of the 2010-2013 satellite royalty years.”

197) “After Dr. Gray selected stations for each of the 2010-2013 cable royalty years, MPAA’s counsel sent the lists of Dr. Gray’s stations to CDC.”

198) “CDC then analyzed each of these stations in order to determine which counties fell within the station’s local service area.”

199) “[F]irst, we identified the counties that constituted each station’s Designated Market Area (“DMA”). “

200) “Second, we identified the counties in which each station was deemed “significantly viewed” per the FCC.”

201) “Lastly, we looked at other factors that would qualify a county as local to the station in question.”

202) “Once CDC completed the local county analysis, I sent the results MPAA’s counsel.”

Any and all documents underlying or used to create the following exhibits:

203) Appendix A.

Dated: January 9, 2018

_____/s/_____
Brian D. Boydston, Esq.
California State Bar No. 155614

PICK & BOYDSTON, LLP
10786 Le Conte Ave.
Los Angeles, California 90024
Telephone: (213) 624-1996
Facsimile: (213) 624-9073
Email: brianb@ix.netcom.com

Attorneys for Multigroup Claimants

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of January, 2018, a copy of the foregoing was sent by electronic mail to the parties listed on the attached Service List.

_____/s/_____
Brian D. Boydston, Esq.

MPAA-REPRESENTED PROGRAM SUPPLIERS

Gregory O. Olaniran, Esq.
MITCHELL SILBERBERG & KNUPP LLP
1818 n Street N.W., 8th Floor
Washington, DC 20036
Tel: 202-355-7817
goo@msk.com; lh@msk.com

NATIONAL ASSOCIATION OF BROADCASTERS BROADCASTER CLAIMANTS GROUP

John I. Stewart, Esq.
CROWELL & MORING LLP
1001 Pennsylvania Avenue NW
Washington, DC 20004
Tel: 202-6242-2685
jstewart@crowell.com

CANADIAN CLAIMANTS GROUP

L. Kendall Satterfield, Esq.
SATTERFIELD PLLC
1629 K Street, NW, St 300
Washington, DC 20006
Tel: 202-337-8000
lksatterfield@satterfield-pllc.com

Victor Cosentino
LARSON & GATSON LLP
200 S. Robles Ave., Suite 530

Pasadena, CA 91101
Tel: 626-795-6001
Victor.cosentino@larsongaston.com

SETTLING DEVOTIONAL CLAIMANTS

Arnold P. Lutzker, Esq.
LUTZKER & LUTZKER LLP
1233 20th Street, NW , Suite 703
Washington, DC 20036
Tel: 202-408-7600
arnie@lutzker.com

Clifford M. Harrington, Esq.
Matthew MacLean, Esq.
PILSBURY WINTHROP SHAW PITTMAN LLP
1200 Seventeenth Street NW
Washington, DC 20036
Matthew.maclean@pillsburylaw.com
clifford.harrington@pillsburylaw.com

JOINT SPORTS CLAIMANTS

Robert Alan Garrett
ARNOLD AND PORTER LLP
601 Massachusetts Ave., NW
Washington, DC 20001
Tel: 202-942-5000
Robert.garrett@apks.com; sean.laane@apks.com; Michael.kientzle@apks.com

Michael J. Mellis
OFFICE OF THE COMMISSIONER OF BASEBALL
245 Park Avenue
New York, NY 10167
Tel: 212-931-7800
Mike.Mellis@mlb.com

Phillip R. Hochberg, Esq.
LAW OFFICES OF PHILLIP R. HOCHBERG
12505 Park Potomac Avenue, 6th Floor
Potomac, MD 20854

Tel: 301-230-6572
phochberg@shulmanrogers.com

Ritchie T. Thomas, Esq.
SQUIRE PATTON BOGGS
2550 M Street Northwest
Washington, DC 20037
Tel: 202-457-6000
Ritchie.thomas@squirepb.com

PUBLIC BROADCASTING
Covington & Burlington, LLP
Ronald G. Dove, Jr., Esq.
One City Center
850 Tenth Street, NW
Washington, D.C., 20001-4956

Email: rdove@cov.com
ltonsager@cov.com
dcho@cov.com

EXHIBIT 2



MITCHELL SILBERBERG & KNUPP LLP
A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

Lucy Holmes Plovnick
(202) 355-7918 Phone
(202) 355-7888 Fax
lhp@msk.com

January 12, 2018

VIA E-MAIL

Brian D. Boydston
Pick & Boydston LLP
10786 Le Conte Avenue
Los Angeles, CA 90024

Re: Docket No. 14-CRB-0010-CD/SD (2010-13)
MPAA Objections to Multigroup Claimants' Document Requests, 2010-13 Cable

Dear Brian:

On January 8, 2018, MPAA received a series of document requests from the Multigroup Claimants ("MGC") (the "MGC Requests"). MPAA and SDC have motions pending in this proceeding to dismiss MGC as a participant and to quash all of MGC's Distribution Phase discovery requests due to MGC's procedural default for its failure to submit a timely written direct statement that complies with the Copyright Act and the Copyright Royalty Judges' ("Judges") regulations (the "Pending Motions"). Accordingly, MPAA considers each of the MGC Requests objectionable and not properly subject to a response. However, notwithstanding the foregoing, this letter provides MPAA's specific objections to the MGC Requests.¹ We repeat each of the MGC Requests below, followed by our Objections.

I. General Objections:

- A. MPAA objects to the MGC Requests because MGC is subject to automatic dismissal in this proceeding for failing to submit a timely written direct statement that complies with the Judges' regulations and the Copyright Act. *See* 37 C.F.R. 351.4(a)-(b); 17 U.S.C. § 803(b)(6)(C)(i) and (ii)(II); *see also Order Granting In Part Allocation Phase Parties' Motion To Dismiss Multigroup Claimants And Denying Multigroup Claimants' Motion For Sanctions Against Allocation Phase Parties* at 4 (August 11, 1017); *Order Granting Sound Exchange Motion To Dismiss Muzak LLC*, Docket No. 2006-1 CRB DSTR (January 10, 2007); *Order Granting SoundExchange's Motion To Dismiss Persons And Entities That Did Not File A Written Direct Statement*, Docket No. 2005-1 CRB DTRA (January 20, 2006); *Order*, Docket No. 2000-9 CARP DTRA 1&2 (April 23, 2001). Due to MGC's procedural default, MGC is not an opposing party to MPAA in this

¹ The MGC Requests attempted to unilaterally set a January 15, 2018 deadline for MPAA to serve objections and produce documents in response to the MGC Requests. *See* MGC Requests at 1. This is a federal holiday (MLK Day), and MPAA did not consent to it as a deadline for production of discovery in this proceeding. As a result, MPAA is not bound by MGC's self-imposed discovery deadline. *See Order Granting In Part Multigroup Claimants' First Motion To Compel Production Of Documents By Major League Soccer* at 4 (September 14, 2016).

proceeding, and thus may not serve MPAA with discovery requests. *See* 37 C.F.R. § 351.6 (“In distribution proceedings...parties may request of an *opposing* party nonprivileged underlying documents related to the written exhibits and testimony.”) (emphasis added).

- B. MPAA objects to the MGC Requests to the extent that they are vague, ambiguous, or otherwise not susceptible to a response, and to the extent that they are overly broad, unduly burdensome, and seek the disclosure of documents and information not reasonably calculated to lead to the discovery of evidence admissible in this proceeding.
- C. MPAA objects to the MGC Requests to the extent that they seek disclosure of documents and information that are not subject to discovery pursuant to the rules, procedures, and orders of the Judges. Without limiting the generality of the foregoing, MPAA objects to each request insofar as it seeks production documents other than those required to be produced under Section 351.6 of the rules of the Judges, which require production only of “nonprivileged underlying documents related to the written exhibits and testimony.”
- D. MPAA objects to the MGC Requests to the extent that they are unrelated to the specific factual assertions of a MPAA witness in either their written exhibits or testimony. *See* Order, Docket No. 94-3 CARP CD 90-92 at 1-2 (October 30, 1995) (“*Limited scope of discovery*. Discovery in CARP proceedings is intended to produce only the documents that underlie the witness’ factual assertions. It is not intended to augment the record with what the witness might have said or put forward, or to range beyond what the witness said.”); *see also* Order, Docket No. 96-5 CARP DSTRA at 2 (January 21, 1997) (“Broad, nonspecific discovery requests are not acceptable. The requesting party must identify the witness and the factual assertions for which supporting documents are sought.”).
- E. MPAA objects to the MGC Requests to the extent that the definitions and instructions, the content of the requests, or the deadlines assigned for production purport to impose obligations beyond those imposed by the rules, procedures, and orders of the Judges.
- F. MPAA objects to the MGC Requests to the extent that they seek the disclosure of information and documents protected from disclosure by any privilege, including, without limitation, the attorney-client privilege and the work product doctrine.
- G. MPAA objects to the MGC Requests to the extent they call for MPAA to create documents or perform analyses, or to produce a document not within MPAA’s possession, custody, or control.

- H. MPAA objects to the MGC Requests to the extent that they seek production of documents to which all parties have equal access, including but not limited to publicly available documents.
- I. MPAA objects to the MGC Requests to the extent that they seek the disclosure of confidential, proprietary, or “trade secret” information, and production is requested without the qualification that the MGC Request is made subject to a protective order limiting the disclosure of such restricted information.
- J. MPAA objects to the MGC Requests to the extent that they call for production of documents, data, or related information that is already within MGC’s possession, custody, or control.
- K. These General Objections are incorporated into each of the following Responses.

II. Responses Pertaining to Specific MGC Requests:

Allocation Proceedings for 2010-2013 Cable And Satellite Royalties

1) All documents produced by any party to the 2010-2013 cable or satellite royalty allocation proceedings, including but not limited to the MPAA, Settling Devotional Claimants, Joint Sports Claimants, Canadian Claimants Group, Commercial Television Claimants Group, and the Public Television Claimants.

MPAA OBJECTION: MPAA objects to this MGC Request because it seeks documents related to the Allocation Phase of this proceeding, in which MGC is not a participant. *See Order Granting In Part Allocation Phase Parties’ Motion To Dismiss Multigroup Claimants And Denying Multigroup Claimants’ Motion For Sanctions Against Allocation Phase Parties* at 4 (August 11, 2017). MGC is also subject to automatic dismissal in the Distribution Phase of this proceeding for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See General Objection A.* MPAA further objects to this request because it has been advised by the Commercial Television Claimants (“CTV”), the Joint Sports Claimants (“JSC”), the Public Television Claimants (“PTV”), and the Canadian Claimants Group (“CCG”) that they object to MPAA’s production to MGC of any documents produced by CTV, JSC, PTV, or CCG to MPAA in the Allocation Phase of this proceeding. MPAA also objects to this request because it is outside the scope of permissible discovery in royalty distribution proceedings, which is limited to “nonprivileged documents related to the written exhibits and testimony” contained in a party’s written direct statement. *See General Objections C and D. See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2

CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August 1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond the permissible scope of discovery). Accordingly, MPAA will not produce documents in response to this request.

Written Direct Statement

2) Any and all documents reflecting agreements entered into between the MPAA, on the one hand, and either Jane Saunders, Paul Lindstrom, Jeffrey Gray, Jonda Martin, Cable Data Corporation, Nielsen Media Research, Marsha Kessler, or Alex Paen, on the other hand.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request because it seeks discovery related to MPAA's introductory memorandum and designated testimony from prior proceedings, which are both outside the scope of permissible discovery in royalty distribution proceedings. Discovery in distribution proceedings is limited to "nonprivileged documents related to the written exhibits and testimony" contained in a party's written direct statement. *See* General Objections C and D. *See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August 1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond the permissible scope of discovery). MPAA further objects to this request because it seeks documents that are subject to attorney-client privilege and the work product doctrine, and thus not subject to production. *See* General Objection F. MPAA will not produce documents in response to this request.

3) Any and all documents supporting the MPAA's claim to between 99.37% and 99.50% of the 2010-2013 cable royalties, depending on the royalty year at issue.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request because it seeks discovery related to MPAA's introductory memorandum, which is outside the scope of permissible discovery in royalty distribution proceedings. Discovery in distribution proceedings is limited to "nonprivileged documents related to the written exhibits and testimony" contained in a party's written direct statement. *See* General Objections C and D. *See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August 1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond

the permissible scope of discovery). MPAA will not produce documents in response to this request directed at MPAA's introductory memorandum.

4) Any and all documents reflecting the substance of footnote 12 of the Written Direct Statement, i.e., documents reflecting the allocation of royalties to NAB-claimed titles.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See General Objection A.* MPAA further objects to this request because it seeks discovery related to MPAA's introductory memorandum, which is outside the scope of permissible discovery in royalty distribution proceedings. Discovery in distribution proceedings is limited to "nonprivileged documents related to the written exhibits and testimony" contained in a party's written direct statement. *See General Objections C and D. See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August 1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond the permissible scope of discovery). MPAA will not produce documents in response to this request directed at MPAA's introductory memorandum.

5) Any and all documents on which any differences between the MPAA's written direct statement filed on June 30, 2017 and the version filed on December 29, 2017, are based.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See General Objection A.* MPAA further objects to this request because it seeks discovery related to MPAA's introductory memorandum, which is outside the scope of permissible discovery in royalty distribution proceedings. Discovery in distribution proceedings is limited to "nonprivileged documents related to the written exhibits and testimony" contained in a party's written direct statement. *See General Objections C and D. See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August 1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond the permissible scope of discovery). MPAA will not produce documents in response to this request directed at MPAA's introductory memorandum.

Testimony of Jane Saunders

6) Any and all documents relied on by Jane Saunders in order to form the statements and opinions expressed in her testimony, and all documents undermining such statements and opinions.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request because it is overly broad, not directed at any specific factual assertion of a particular witness, and not limited in scope in order to make the request compliant with the Judges' regulations. Discovery in distribution proceedings is limited to "nonprivileged documents related to the written exhibits and testimony" contained in a party's written direct statement. *See* General Objections B, C and D. *See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August 1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond the permissible scope of discovery). MPAA will not produce documents in response to this request.

Any and all documents underlying or used to support the following statements:

7) "I serve as Senior Vice-President, Rights Management Policy and Relations . . . at the Motion Picture Association of America."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

8) "I represent MPAA and its member companies on the boards of various collective management organization, including AGICOA . . . GWFF USA . . . CAB and FilmKopi . . . and the Copyright Collective of Canada."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

9) "I am a member, with inactive status, of the Georgia State and District of Columbia Bar Associations."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an

opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

10) “In Canada, I am responsible for all of the operations of MPAA’s retransmission royalty program via the Copyright Collective of Canada (“CCC”), including supervision of CCC staff . . .”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

11) “The lists of MPAA-represented Program Suppliers asserting claims to Section 111 royalties in this proceedings are set forth in Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix A to her testimony, which was served on MGC as a part of MPAA’s written direct statement. All documents related to MPAA’s claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC’s claims challenges directed at MPAA’s claims and claimants were resolved by the Judges via their *Ruling And Order Regarding Objections To Cable And Satellite Claims* (October 23, 2017) (“*Claims Order*”). MPAA has no additional documents to produce in response to this request.

12) “MPAA directly represented approximately 100 claimants in each royalty year at issue.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix A to her testimony, which was served on MGC as a part of MPAA’s written direct statement. All documents related to MPAA’s claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC’s claims challenges directed at MPAA’s claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

13) “MPAA directly and indirectly represents . . . 6,200 to 9,400 claimants per royalty year.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix A to her testimony, which was served on MGC as a part of MPAA’s written direct statement. All documents related to MPAA’s claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC’s claims challenges directed at MPAA’s claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

14) “Appendix A is limited to only the particular MPAA-represented Program Suppliers who have certified their authority to collect retransmission royalties for programming that is compensable in this proceeding.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix A to her testimony, which was served on MGC as a part of MPAA’s written direct statement. All documents related to MPAA’s claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC’s claims challenges directed at MPAA’s claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

15) “This list includes between 238 and 543 MPAA-represented claimants per royalty year.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix A to her testimony, which was served on MGC as a part of MPAA’s written direct statement. All documents related to MPAA’s claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC’s claims challenges directed at MPAA’s claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

16) “[Appendix B] includes an average of 2,600 unique titles for each of the four years in question, for a total of more than 10,000 MPAA-claimed titles for the four year period.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix B to her testimony, which was served on MGC as a part of MPAA’s written direct statement. All documents related to MPAA’s claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC’s claims challenges directed at MPAA’s claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

17) “To be a MPAA-represented claimant, a rights holder must satisfy the following requirements: (1) file a timely claim for retransmission royalties each year with the Copyright Office”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents. All documents related to MPAA’s claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC’s claims challenges directed at MPAA’s claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

18) “To be a MPAA-represented claimant, a rights holder must satisfy the following requirements: . . (2) provide MPAA with an ‘as-filed’ copy of that claim demonstrating that it was submitted to the Office in a timely manner”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents. All documents related to MPAA’s claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC’s claims challenges directed

at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

19) "To be a MPAA-represented claimant, a rights holder must satisfy the following requirements: . . . (3) have a valid representation agreement with MPAA, or be a party to a joint claim filed by an agent represented by MPAA."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

20) "All of the MPAA-represented claimants listed on Appendix A to my testimony satisfied these requirements"

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix A to her testimony, which was served on MGC as a part of MPAA's written direct statement. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

21) "MPAA has developed an electronic Royalty Management System ("RMS") that provides MPAA with an efficient means of managing its royalty distribution process The list of MPAA-represented claimants' titles in Appendix B of my testimony were all subject to MPAA's internal royalty distribution processes. "

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than

Appendix B to her testimony, which was served on MGC as a part of MPAA's written direct statement. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

22) "The list of the transferred NAB-claimed titles is attached to my testimony as Appendix C."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix C to her testimony, which was served on MGC as a part of MPAA's written direct statement. All documents related to NAB's claims and claimants were already produced to MGC in this proceeding by NAB in the course of preliminary discovery. MPAA has no additional documents to produce in response to this request.

23) "[In] Europe and Canada . . . viewing of programs is the predominant metric used to distribute retransmission royalties paid by cable and satellite operators to producers, such as the MPAA members."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

24) "Viewing is the metric relied upon by the Canadian Copyright Board ("CCB"), a body comparable in mission to the Judges, to allocate shares of total royalties paid by retransmitters among the Canadian collectives."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than the CCB decisions referenced specifically in her testimony. Those decisions are all a matter of public record, and are equally available to both MPAA and MGC. *See* General Objection H. MPAA will not produce documents in response to this request.

25) “[O]ne or more of the claiming collective societies, which represent the rights holders, submit individually or jointly (depending on the royalty year period in question) viewing studies to the CCB.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than the CCB decisions referenced specifically in her testimony. Those decisions are all a matter of public record, and are equally available to both MPAA and MGC. *See* General Objection H. MPAA will not produce documents in response to this request.

26) “These studies are based upon viewing data for broadcast events during a given royalty year, obtained through a monitoring organization called BBM Canada, and other metrics to winnow out distant subscriber viewing of the various audiovisual works claimed by each collective.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than the CCB decisions referenced specifically in her testimony. Those decisions are all a matter of public record, and are equally available to both MPAA and MGC. *See* General Objection H. MPAA will not produce documents in response to this request.

27) “The CCB has relied on these viewing studies to allocate the collected royalties for many years.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than the CCB decisions referenced specifically in her testimony. Those decisions are all a matter of public record, and are equally available to both MPAA and MGC. *See* General Objection H. MPAA will not produce documents in response to this request.

Related Documents.

28) Any and all documents establishing that the “MPAA-Represented Program Supplier Claimants” are comprised of the entities identified at Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections C and D. All documents related to MPAA’s claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC’s claims challenges directed at MPAA’s claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

29) Any and all documents relating to the MPAA’s right to file a Petition to Participate in this proceeding.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections C and D. All documents related to MPAA’s claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC’s claims challenges directed at MPAA’s claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

30) Any and all Claims filed by the entities identified at Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections C and D. All documents related to MPAA’s claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC’s claims challenges directed at MPAA’s claims and claimants were resolved by the Judges

via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

31) Any and all documents establishing the existence of broadcasts cited in Claims made by entities identified at Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

32) Any and all documents showing any asset transfers, agency or assignments amongst MPAA entities or with third parties with respect to any Claim.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. MPAA also objects to this request because it is made in violation of the Judges' discovery orders in this proceeding. *See Order Granting In Part Multigroup Claimants' First Motion To Compel Production Of Documents By MPAA*, at 3-4 (September 14, 2016). MPAA will not produce documents in response to this request.

33) Any and all correspondence amongst MPAA entities regarding any Claim in this proceeding.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this

proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. MPAA also objects to this request because it is made in violation of the Judges' discovery orders in this proceeding. *See Order Granting In Part Multigroup Claimants' First Motion To Compel Production Of Documents By MPAA*, at 3-4 (September 14, 2016). MPAA will not produce documents in response to this request.

34) Any and all documents demonstrating the full legal name of the entities identified at Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

35) Any and all agreements or documents demonstrating the MPAA's entitlement to represent the interests in these proceedings of any entity identified at Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

36) Any and all documents reflecting which entities identified at Appendix A are making claim for which programs appearing in Appendix B.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement

that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

37) Any and all documents reflecting the MPAA's investigation into the entitlement of entities identified at Appendix A to make claim for royalties attributable to the programs appearing in Appendix B.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

38) Any and all documents summarizing the methods for distributing royalties utilized by the Canadian Copyright Board.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. MPAA will not produce documents in response to this request.

39) Any and all documents summarizing the methods for distributing royalties utilized by AGICOA.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. MPAA will not produce documents in response to this request.

40) Any and all documents summarizing the methods for distributing royalties utilized by GWFF USA.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. MPAA will not produce documents in response to this request.

41) Any and all documents summarizing the methods for distributing royalties utilized by CAB.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. MPAA will not produce documents in response to this request.

42) Any and all documents summarizing the methods for distributing royalties utilized by the FilmKopi.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly

burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. MPAA will not produce documents in response to this request.

43) Any and all documents summarizing the methods for distributing royalties utilized by the Copyright Collective of Canada.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. MPAA will not produce documents in response to this request.

Any and all documents underlying or used to create the following exhibits:

44) Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this MGC Request because all documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

45) Appendix B.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this MGC Request because all documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

46) Appendix C.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this MGC Request because all documents related to NAB's claims and claimants were already produced to MGC in this proceeding by NAB in the course of preliminary discovery. MPAA has no additional documents to produce in response to this request.

Testimony of Paul Lindstrom

47) Any and all documents relied on by Paul Lindstrom in order to form the statements and opinions expressed in his testimony, and all documents undermining such statements and opinions.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request because it is overly broad, not directed at any specific factual assertion of a particular witness, and not limited in scope in order to make the request compliant with the Judges' regulations. Discovery in distribution proceedings is limited to "nonprivileged documents related to the written exhibits and testimony" contained in a party's written direct statement. *See* General Objections B, C and D. *See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August 1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond the permissible scope of discovery). MPAA will not produce documents in response to this request.

Any and all documents underlying or used to support the following statements:

48) "Nielsen designed, for MPAA, custom analyses of national household metered viewing data for each of the 2010-2013 years."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive

discovery. *See* General Objection A. Mr. Lindstrom relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

49) “Dr. Gray supplied Nielsen with a list of his sample stations for each of the 2010-2013 cable royalty years.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Moreover, a list of Dr. Gray’s sample stations was already provided to MGC as an appendix to Dr. Gray’s testimony, which was included in MPAA’s written direct statement. MPAA has no additional documents to produce in response to this request.

50) “I understand that Dr. Gray relied on data from Cable Data Corporation (“CDC”) in order to select the stations in his samples for each year.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Mr. Lindstrom relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

51) “Based on county analyses it performed, CDC provided Nielsen with the identity of the counties considered local to each station in Dr. Gray’s samples.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

52) “For the 2010-2013 cable custom analyses, Nielsen eliminated all non-cable viewing of programs for Dr. Gray’s sample stations.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive

discovery. *See* General Objection A. Mr. Lindstrom relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

53) “Further, it separated all viewing to each station into two categories—viewing that occurred within the station’s local area (as determined by CDC’s county analyses) and viewing that occurred outside the station’s local area.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Mr. Lindstrom relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

54) “Nielsen then provided a report to Dr. Gray separately identifying both local viewing and distant viewing among cable households for the stations in Dr. Gray’s 2010-2013 samples. This was reported in the form of quarter hours of viewing by households.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

55) “The appearance of these “zero viewing” instances is consistent with what I would expect to find in a custom analysis of viewing to distant signals by cable subscribers.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Mr. Lindstrom relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

56) “Where the viewing minutes to particular distant signal programs were so small as to be statistically insignificant, Nielsen’s custom analysis would assign a zero viewing value.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive

discovery. *See* General Objection A. Mr. Lindstrom relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

Related Documents

57) The “2010-2013 household meter data”, and any documents underlying the creation thereof.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

58) The “2010-2013 cable custom analyses”, and any documents underlying the creation thereof.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

Testimony of Jeffrey Gray

59) Any and all documents relied on by Jeffrey Gray in order to form the statements and opinions expressed in his testimony, and all documents undermining such statements and opinions.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request because it is overly broad, not directed at any specific factual assertion of a particular witness, and not limited in scope in order to make the request compliant with the Judges’ regulations. Discovery in distribution proceedings is limited to “nonprivileged documents related to the written exhibits and testimony” contained in a party’s written direct statement. *See* General Objections B, C and D. *See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August

1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond the permissible scope of discovery). MPAA will not produce documents in response to this request.

Any and all documents underlying or used to support the following statements:

60) “I have been engaged by cable system operators to analyze the content and viewership of certain channels”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

61) “[Cable system operator and satellite carriers] face the same economic motivations in attempting to attract and maintain subscribers.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this MGC Request because it misquotes and thus misrepresents Dr. Gray’s December 29, 2017 testimony. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony.

62) “I assume that none of MC’s claims are valid.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this MGC Request because it misquotes and thus misrepresents Dr. Gray’s December 29, 2017 testimony. The sentence contained in this MGC Request and attributed to Dr. Gray does not appear in Dr. Gray’s December 29, 2017 testimony.

63) “The number of retransmitted minutes provides a rough measure of the relative economic value of programming because it provides a quantification of CSO purchases, though in a regulated setting.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

64) "The most direct and reasonable approach to measuring the extent to which CSO subscribers value programming is viewership."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

65) "I calculated all shares of total program volume (i.e., based on minutes of airtime) and shares of program viewing based on a random selection of distant signal channels each year from 2010 to 2013."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

66) "MPAA-represented compensable programs accounted for 97.83%-98.91% of total program volume in the Program Suppliers category over the years 2010-2013."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection,

MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

67) “MPAA-represented compensable programs accounted for 99.37%-99.50% of total program viewing in the Program Suppliers category over the years 2010-2013.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

68) “[E]ven though CSOs are the buyers of the programming bundles, a reasonable measure of the relative market value of a retransmitted program is the relative level of subscriber viewing of that program.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

69) “CSOs want to carry stations with high viewership programming such as off network syndicated television series that originally attracted a loyal following in their network runs and continue to do so in syndication.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

70) “They also desire to carry stations with high viewership programming, such as first-run syndicated programs that they believe will garner satisfactory audience levels.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

71) "[C]able networks routinely analyze viewing levels because they understand that this measure is the best available indicator of what attracts and retains subscribers."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

72) "I apply a two-step approach: . . . First, I calculate measures of the relative volume of each party's claimed programming."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

73) "I apply a two-step approach: . . . Second, I calculate the relative viewership of each party's claimed programming."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection,

MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

74) “I rely upon Nielsen viewing data, Gracenote, Inc. (“Gracenote”) programming data, and Canadian Radio-television and Telecommunications Commission (“CRTC”) program logs, to study the volume and viewing information of compensable programs from 2010 through 2013. Also, I rely upon Cable Data Corporation (“CDC”) carriage data, which provides information about stations carried by cable systems.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

75) “I selected a sample of stations from the universe of stations provided by CDC based on a stratified random sampling methodology.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

76) “I rely on Nielsen Local and Distant Viewing Household Data for 2010-2013 (“Nielsen Viewing Data”).”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

77) “As a part of my analysis, I excluded as non-compensable programs airing on WGN’s local feed (“WGN”) that were not simultaneously broadcast on WGN’s national feed (“WGNA”).”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

78) "Also, I excluded all programs broadcasted on ABC, CBS, and NBC networks because network programs are non-compensable for present purposes."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

79) "Based on the CDC data, there were over 1,000 stations that were distantly retransmitted by CSOs each year from 2010 to 2013."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

80) "Across the four samples there were 609 station-year combinations with 384 unique stations."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

81) "I combined and analyzed the various datasets described above to calculate the levels of volume and viewership of programming represented by MPAA and MC."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

82) "From 2010 to 2013, between 4.0 million and 6.5 million compensable MPAA-represented programs aired on stations retransmitted by CSOs."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

83) "This programming consisted of between approximately 158.6 million and 245.6 million retransmitted minutes of compensable programming."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

84) "In contrast, over the same years, between 43.5 thousand and 94.7 thousand compensable MC-represented programs aired on stations retransmitted by CSOs."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

85) "This programming consisted of between 1.7 million and 5.5 million retransmitted minutes of compensable programming."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

86) "[T]here are many instances of no recorded distant viewing of compensable retransmitted programs in the Nielsen Viewing Data."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

87) "I applied multiple regression analysis techniques to all distantly retransmitted programs."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

88) "The regressions demonstrate that there is a positive and statistically significant relationship between local ratings and distant viewing."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

89) "I calculated each party's share of total distant viewing as the sum of estimated distant viewing of that party's programs divided by the sum of estimated distant viewing of all valid MPAA and MC retransmitted programming."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

Related Documents

90) Nielsen viewing data.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

91) Gracenote, Inc. programming data.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

92) Canadian Radio-television and Telecommunications Commission program logs.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

93) Cable Data Corporation carriage data.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

Any and all documents underlying or used to create the following exhibits:

94) Table 1.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

95) Table 2.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

96) Appendix B.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

97) Appendix C, Table C-1.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement

that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

98) Appendix C, Table C-2.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

99) Appendix C, Table C-3.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

100) Appendix C, Table C-4.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

101) Appendix C, Table C-5.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection,

MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

102) Appendix C, Table C-6.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

103) Appendix C, Table C-7.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

104) Appendix C, Table C-8.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

105) Appendix C, Table C-9.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

Testimony of Jonda Martin

106) Any and all documents relied on by Jonda Martin in order to form the statements and opinions expressed in her testimony, and all documents undermining such statements and opinions.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request because it is overly broad, not directed at any specific factual assertion of a particular witness, and not limited in scope in order to make the request compliant with the Judges' regulations. Discovery in distribution proceedings is limited to "nonprivileged documents related to the written exhibits and testimony" contained in a party's written direct statement. *See* General Objections B, C and D. *See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August 1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond the permissible scope of discovery). MPAA will not produce documents in response to this request.

Any and all documents underlying or used to support the following statements:

107) "CDC provided MPAA with a set of customized data reports for each of the 2010-2013 cable royalty years."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

108) "After Dr. Gray selected sample stations for each of the 2010-2013 cable royalty years, MPAA's counsel sent the lists of Dr. Gray's sample stations to CDC."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. A list of Dr. Gray's sample stations was already provided to MGC as an appendix to Dr. Gray's testimony, which was included in MPAA's written direct statement. MPAA has no additional documents to produce in response to this request.

109) “CDC then analyzed each of these stations in order to determine which counties fell within the station’s local service area.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

110) “[F]irst, we identified the counties that constituted each station’s Designated Market Area (“DMA”).

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

111) “Second, we identified the counties in which each station was deemed “significantly viewed” per the FCC.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

112) “Lastly, we looked at other factors that would qualify a county as local to the station in question.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

113) “CDC used multiple criteria to identify local counties for the Canadian stations in the sample.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

114) “Once CDC completed the local county analysis, I sent the results MPAA’s counsel.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

Any and all documents underlying or used to create the following exhibits:

115) Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

Sincerely,



Lucy Holmes Plovnick
Partner of
MITCHELL SILBERBERG & KNUPP LLP

LHP/pxt



MITCHELL SILBERBERG & KNUPP LLP
A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

Lucy Holmes Plovnick
(202) 355-7918 Phone
(202) 355-7888 Fax
lhp@msk.com

January 12, 2018

VIA E-MAIL

Brian D. Boydston
Pick & Boydston LLP
10786 Le Conte Avenue
Los Angeles, CA 90024

Re: Docket No. 14-CRB-0010-CD/SD (2010-13)
MPAA Objections to Multigroup Claimants' Document Requests, 2010-13 Satellite

Dear Brian:

On January 9, 2018, MPAA received a series of document requests from the Multigroup Claimants ("MGC") (the "MGC Requests"). MPAA and SDC have motions pending in this proceeding to dismiss MGC as a participant and to quash all of MGC's Distribution Phase discovery requests due to MGC's procedural default for its failure to submit a timely written direct statement that complies with the Copyright Act and the Copyright Royalty Judges' ("Judges") regulations (the "Pending Motions"). Accordingly, MPAA considers each of the MGC Requests objectionable and not properly subject to a response. However, notwithstanding the foregoing, this letter provides MPAA's specific objections to the MGC Requests.¹ We repeat each of the MGC Requests below, followed by our Objections.

General Objections:

- A. MPAA objects to the MGC Requests because MGC is subject to automatic dismissal in this proceeding for failing to submit a timely written direct statement that complies with the Judges' regulations and the Copyright Act. *See* 37 C.F.R. 351.4(a)-(b); 17 U.S.C. § 803(b)(6)(C)(i) and (ii)(II); *see also Order Granting In Part Allocation Phase Parties' Motion To Dismiss Multigroup Claimants And Denying Multigroup Claimants' Motion For Sanctions Against Allocation Phase Parties* at 4 (August 11, 1017); *Order Granting Sound Exchange Motion To Dismiss Muzak LLC*, Docket No. 2006-1 CRB DSTR (January 10, 2007); *Order Granting SoundExchange's Motion To Dismiss Persons And Entities That Did Not File A Written Direct Statement*, Docket No. 2005-1 CRB DTRA (January 20, 2006); *Order*, Docket No. 2000-9 CARP DTRA 1&2 (April 23, 2001). Due to MGC's procedural default, MGC is not an opposing party to MPAA in this

¹ The MGC Requests attempted to unilaterally set a January 16, 2018 deadline for MPAA to serve objections and produce documents in response to the MGC Requests. *See* MGC Requests at 1. MPAA did not consent to this date as a deadline for production of discovery in this proceeding. As a result, MPAA is not bound by MGC's self-imposed discovery deadline. *See Order Granting In Part Multigroup Claimants' First Motion To Compel Production Of Documents By Major League Soccer* at 4 (September 14, 2016).

proceeding, and thus may not serve MPAA with discovery requests. *See* 37 C.F.R. § 351.6 (“In distribution proceedings...parties may request of an *opposing* party nonprivileged underlying documents related to the written exhibits and testimony.”) (emphasis added).

- B. MPAA objects to the MGC Requests to the extent that they are vague, ambiguous, or otherwise not susceptible to a response, and to the extent that they are overly broad, unduly burdensome, and seek the disclosure of documents and information not reasonably calculated to lead to the discovery of evidence admissible in this proceeding.
- C. MPAA objects to the MGC Requests to the extent that they seek disclosure of documents and information that are not subject to discovery pursuant to the rules, procedures, and orders of the Judges. Without limiting the generality of the foregoing, MPAA objects to each request insofar as it seeks production documents other than those required to be produced under Section 351.6 of the rules of the Judges, which require production only of “nonprivileged underlying documents related to the written exhibits and testimony.”
- D. MPAA objects to the MGC Requests to the extent that they are unrelated to the specific factual assertions of a MPAA witness in either their written exhibits or testimony. *See* Order, Docket No. 94-3 CARP CD 90-92 at 1-2 (October 30, 1995) (“*Limited scope of discovery*. Discovery in CARP proceedings is intended to produce only the documents that underlie the witness’ factual assertions. It is not intended to augment the record with what the witness might have said or put forward, or to range beyond what the witness said.”); *see also* Order, Docket No. 96-5 CARP DSTRA at 2 (January 21, 1997) (“Broad, nonspecific discovery requests are not acceptable. The requesting party must identify the witness and the factual assertions for which supporting documents are sought.”).
- E. MPAA objects to the MGC Requests to the extent that the definitions and instructions, the content of the requests, or the deadlines assigned for production purport to impose obligations beyond those imposed by the rules, procedures, and orders of the Judges.
- F. MPAA objects to the MGC Requests to the extent that they seek the disclosure of information and documents protected from disclosure by any privilege, including, without limitation, the attorney-client privilege and the work product doctrine.
- G. MPAA objects to the MGC Requests to the extent they call for MPAA to create documents or perform analyses, or to produce a document not within MPAA’s possession, custody, or control.

- H. MPAA objects to the MGC Requests to the extent that they seek production of documents to which all parties have equal access, including but not limited to publicly available documents.
- I. MPAA objects to the MGC Requests to the extent that they seek the disclosure of confidential, proprietary, or “trade secret” information, and production is requested without the qualification that the MGC Request is made subject to a protective order limiting the disclosure of such restricted information.
- J. MPAA objects to the MGC Requests to the extent that they call for production of documents, data, or related information that is already within MGC’s possession, custody, or control.
- K. These General Objections are incorporated into each of the following Responses.

I. Responses Pertaining to Specific MGC Requests:

Written Direct Statement

116) Any and all documents supporting the MPAA’s claim to between 99.52% and 99.89% of the 2010-2013 satellite royalties, depending on the royalty year at issue.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request because it seeks discovery related to MPAA’s introductory memorandum, which is outside the scope of permissible discovery in royalty distribution proceedings. Discovery in distribution proceedings is limited to “nonprivileged documents related to the written exhibits and testimony” contained in a party’s written direct statement. *See* General Objections C and D. *See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August 1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond the permissible scope of discovery). MPAA will not produce documents in response to this request directed at MPAA’s introductory memorandum.

Testimony of Jane Saunders

117) Any and all documents relied on by Jane Saunders in order to form the statements and opinions expressed in her testimony, and all documents undermining such statements and opinions.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request because it is overly broad, not directed at any specific factual assertion of a particular witness, and not limited in scope in order to make the request compliant with the Judges' regulations. Discovery in distribution proceedings is limited to "nonprivileged documents related to the written exhibits and testimony" contained in a party's written direct statement. *See* General Objections B, C and D. *See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August 1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond the permissible scope of discovery). MPAA will not produce documents in response to this request.

Any and all documents underlying or used to support the following statements:

118) "The lists of MPAA-represented Program Suppliers asserting claims to Section [119] royalties in this proceedings are set forth in Appendix A."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix A to her testimony, which was served on MGC as a part of MPAA's written direct statement. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via their *Ruling And Order Regarding Objections To Cable And Satellite Claims* (October 23, 2017) ("*Claims Order*"). MPAA has no additional documents to produce in response to this request.

119) "MPAA directly represented approximately 100 claimants in each royalty year at issue."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix A to her testimony, which was served on MGC as a part of MPAA's written direct statement. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims

challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

120) "MPAA directly and indirectly represents . . . 2,900 to 6,000 claimants per royalty year."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix A to her testimony, which was served on MGC as a part of MPAA's written direct statement. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

121) "Appendix A is limited to only the particular MPAA-represented Program Suppliers who have certified their authority to collect retransmission royalties for programming that is compensable in this proceeding."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix A to her testimony, which was served on MGC as a part of MPAA's written direct statement. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

122) "This list includes between 217 and 332 MPAA-represented claimants per royalty year."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix A to her testimony, which was served on MGC as a part of MPAA's written direct statement. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims

challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

123) "[Appendix B] includes an average of 2,200 unique titles for each of the four years in question, for a total of more than 8,900 MPAA-claimed titles for the four year period."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix B to her testimony, which was served on MGC as a part of MPAA's written direct statement. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

124) "To be a MPAA-represented claimant, a rights holder must satisfy the following requirements: (1) file a timely claim for retransmission royalties each year with the Copyright Office"

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

125) "To be a MPAA-represented claimant, a rights holder must satisfy the following requirements: . . (2) provide MPAA with an 'as-filed' copy of that claim demonstrating that it was submitted to the Office in a timely manner"

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents. All documents related to MPAA's claims and claimants were already produced to MGC in this

proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

126) "To be a MPAA-represented claimant, a rights holder must satisfy the following requirements: . . . (3) have a valid representation agreement with MPAA, or be a party to a joint claim filed by an agent represented by MPAA."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

127) "All of the MPAA-represented claimants listed on Appendix A to my testimony satisfied these requirements"

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and experience in forming this statement, and did not rely on or consider any documents, other than Appendix A to her testimony, which was served on MGC as a part of MPAA's written direct statement. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

128) "MPAA has developed an electronic Royalty Management System ("RMS") that provides MPAA with an efficient means of managing its royalty distribution process The list of MPAA-represented claimants' titles in Appendix B of my testimony were all subject to MPAA's internal royalty distribution processes. "

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Ms. Saunders relied on her professional knowledge and

experience in forming this statement, and did not rely on or consider any documents, other than Appendix B to her testimony, which was served on MGC as a part of MPAA's written direct statement. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

Related Documents.

129) Any and all documents establishing that the "MPAA-Represented Program Supplier Claimants" are comprised of the entities identified at Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

130) Any and all documents relating to the MPAA's right to file a Petition to Participate in this proceeding.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

131) Any and all Claims filed by the entities identified at Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an

opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

132) Any and all documents establishing the existence of broadcasts cited in Claims made by entities identified at Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

133) Any and all documents showing any asset transfers, agency or assignments amongst MPAA entities or with third parties with respect to any Claim.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. MPAA also objects to this request because it is made in violation of the Judges' discovery orders in this proceeding. *See Order Granting In Part Multigroup Claimants' First Motion To Compel Production Of Documents By MPAA*, at 3-4 (September 14, 2016). MPAA will not produce documents in response to this request.

134) Any and all correspondence amongst MPAA entities regarding any Claim in this proceeding.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. MPAA also objects to this request because it is made in violation of the Judges' discovery orders in this proceeding. *See Order Granting In Part Multigroup Claimants' First Motion To Compel Production Of Documents By MPAA*, at 3-4 (September 14, 2016). MPAA will not produce documents in response to this request.

135) Any and all documents demonstrating the full legal name of the entities identified at Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

136) Any and all agreements or documents demonstrating the MPAA's entitlement to represent the interests in these proceedings of any entity identified at Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

137) Any and all documents reflecting which entities identified at Appendix A are making claim for which programs appearing in Appendix B.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

138) Any and all documents reflecting the MPAA's investigation into the entitlement of entities identified at Appendix A to make claim for royalties attributable to the programs appearing in Appendix B.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as unduly burdensome, not reasonably calculated to lead to the discovery of evidence admissible in this proceeding, and improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections B, C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

Any and all documents underlying or used to create the following exhibits:

139) Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as improper under

the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

140) Appendix B.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request as improper under the rules of the Judges, as it is not related to a particular factual assertion of a witness. *See* General Objections C and D. All documents related to MPAA's claims and claimants were already produced to MGC in this proceeding in the course of preliminary discovery, and all of MGC's claims challenges directed at MPAA's claims and claimants were resolved by the Judges via the *Claims Order*. MPAA has no additional documents to produce in response to this request.

141) Appendix C.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this MGC Request because it misrepresents Ms. Saunders December 29, 2017 satellite testimony. Ms. Saunders' December 29, 2017 satellite testimony does not include an Appendix C.

Testimony of Paul Lindstrom

142) Any and all documents relied on by Paul Lindstrom in order to form the statements and opinions expressed in his testimony, and all documents undermining such statements and opinions.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request because it is overly broad, not directed at any specific factual assertion of a particular witness, and not limited in scope in order to make the request compliant with the Judges' regulations. Discovery in

distribution proceedings is limited to “nonprivileged documents related to the written exhibits and testimony” contained in a party’s written direct statement. *See* General Objections B, C and D. *See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August 1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond the permissible scope of discovery). MPAA will not produce documents in response to this request.

Any and all documents underlying or used to support the following statements:

143) “Nielsen designed, for MPAA, custom analyses of national household metered viewing data for each of the 2010-2013 years.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Mr. Lindstrom relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

144) “Dr. Gray supplied Nielsen with a list of his sample stations for each of the 2010-2013 Satellite royalty years.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this MGC Request because it mischaracterizes Mr. Lindstrom’s testimony by misquoting it in this MGC Request. A list of Dr. Gray’s satellite stations was already provided to MGC as an appendix to Dr. Gray’s testimony, which was included in MPAA’s written direct statement. MPAA has no additional documents to produce in response to this request.

145) “I understand that Dr. Gray relied on data from Cable Data Corporation (“CDC”) in order to select these satellite stations for each year.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Mr. Lindstrom relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

146) “Based on county analyses it performed, CDC provided Nielsen with the identity of the

counties considered local to each station selected by Dr. Gray.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

147) “For the 2010-2013 satellite custom analyses, Nielsen eliminated all non-satellite viewing of programs for Dr. Gray’s stations.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Mr. Lindstrom relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

148) “Further, it separated all viewing to each station into two categories—viewing that occurred within the station’s local area (as determined by CDC’s county analyses) and viewing that occurred outside the station’s local area.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Mr. Lindstrom relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

149) “Nielsen then provided a report to Dr. Gray separately identifying both local viewing and distant viewing among satellite households for Dr. Gray’s 2010-2013 satellite stations. This was reported in the form of quarter hours of viewing by households.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

150) “The appearance of these “zero viewing” instances is consistent with what I would expect

to find in a custom analysis of viewing to distant signals by satellite subscribers.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Mr. Lindstrom relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

151) “Where the viewing minutes to particular distant signal programs were so small as to be statistically insignificant, Nielsen’s custom analysis would assign a zero viewing value.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Mr. Lindstrom relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents.

Related Documents

152) The “2010-2013 household meter data”, and any documents underlying the creation thereof.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

153) The “2010-2013 satellite custom analyses”, and any documents underlying the creation thereof.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

Testimony of Jeffrey Gray

154) Any and all documents relied on by Jeffrey Gray in order to form the statements and opinions expressed in his testimony, and all documents undermining such statements and opinions.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request because it is overly broad, not directed at any specific factual assertion of a particular witness, and not limited in scope in order to make the request compliant with the Judges' regulations. Discovery in distribution proceedings is limited to "nonprivileged documents related to the written exhibits and testimony" contained in a party's written direct statement. *See* General Objections B, C and D. *See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August 1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond the permissible scope of discovery). MPAA will not produce documents in response to this request.

Any and all documents underlying or used to support the following statements:

155) "[Satellite carriers and CSOs] face the same economic motivations in attempting to attract and maintain subscribers."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony.

156) "The number of retransmitted minutes provides a rough measure of the relative economic value of programming because it provides a quantification of satellite carriers' purchases, though in a regulated setting."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and

experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony.

157) “The most direct and reasonable approach to measuring the extent to which [satellite carriers’] subscribers value programming is viewership.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

158) “I calculated all shares of total program volume (i.e., based on minutes of airtime) and shares of program viewing based on stations carried by satellite stations each year from 2010 to 2013.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

159) “MPAA-represented compensable programs accounted for 99.33%-99.44% of total program volume in the Program Suppliers category over the years 2010-2013.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

160) “MPAA-represented compensable programs accounted for 99.52%-99.89% of total program viewing in the Program Suppliers category over the years 2010-2013.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

161) “[E]ven though satellite carriers are the buyers of the programming bundles, a reasonable measure of the relative market value of a retransmitted program is the relative level of subscriber viewing of that program.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

162) “[S]atellite carriers want to carry stations with high viewership programming such as off-network syndicated television series that originally attracted a loyal following in their network runs and continue to do so in syndication.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

163) “They also desire to carry stations with high viewership programming such as off-network syndicated television series that originally attracted a loyal following in their network runs and continue to do so in syndication.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

164) "[C]able networks routinely analyze viewing levels because they understand that this measure is the best available indicator of what attracts and retains subscribers."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Dr. Gray relied on his professional knowledge and experience in forming this statement, and did not rely on or consider any documents other than those specifically cited in his testimony. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

165) "I apply a two-step approach:...First, I calculate measures of the relative volume of each party's claimed programming."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

166) "I apply a two-step approach:...Second, I calculate the relative viewership of each party's claimed programming."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

167) “I rely upon Nielsen viewing data, Gracenote, Inc. (“Gracenote”) programming Data to study the volume and viewing information of compensable programs from 2010 through 2013. Also, I rely upon Cable Data Corporation (“CDC”) carriage data, which provides information about stations carried by satellite systems.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

168) “I rely on Nielsen Local and Distant Viewing Household Data for 2010-2013 (“Nielsen Viewing Data”).”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

169) “As a part of my analysis, I excluded as non-compensable programs airing on WGN’s local feed (“WGN”) that were not simultaneously broadcast on WGN’s national feed (“WGNA”).”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

170) “Based on the CDC data, there were a total of between 82 and 143 stations that were distantly retransmitted by satellite carriers each year from 2010 to 2013.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive

discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

171) “I combined and analyzed the various datasets described above to calculate the levels of volume and viewership of programming represented by MPAA and MC.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

172) “From 2010 to 2013, between 607 thousand and 1.1 million compensable MPAA-represented programs aired on stations retransmitted by satellite carriers.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

173) “This programming consisted of between approximately 27.1 million and 49.4 million retransmitted minutes of compensable programming.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

174) “In contrast, over the same years, only between 2.6 thousand and 7.9 thousand compensable MC-represented programs aired on stations retransmitted by CSOs.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive

discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

175) “This programming consisted of between 151.7 thousand and 334.0 thousand retransmitted minutes of compensable programming.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

176) “[T]here are many instances of no recorded distant viewing of compensable retransmitted programs in the Nielsen Viewing Data.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

177) “I applied multiple regression analysis techniques to all distantly retransmitted programs.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

178) “The regressions demonstrate that there is a positive and statistically significant relationship between local ratings and distant viewing.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive

discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

179) “MPAA and MC’s share of total distant viewing is the sum of estimated distant viewing of that party’s programs divided by the sum of estimated distant viewing of all valid MPAA and MC retransmitted programming.”

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

Related Documents

180) Nielsen viewing data.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

181) Gracenote, Inc. programming data.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

182) Cable Data Corporation carriage data.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges’ regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive

discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

Any and all documents underlying or used to create the following exhibits:

183) Table 1.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

184) Table 2.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

185) Appendix B.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

186) Appendix C, Table C-1.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection,

MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

187) Appendix C, Table C-2.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

188) Appendix C, Table C-3.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

189) Appendix C, Table C-4.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

190) Appendix C, Table C-5.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

191) Appendix C, Table C-6.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

192) Appendix C, Table C-7.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

193) Appendix C, Table C-8.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

194) Appendix C, Table C-9.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

Testimony of Jonda Martin

195) Any and all documents relied on by Jonda Martin in order to form the statements and opinions expressed in her testimony, and all documents undermining such statements and opinions.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA further objects to this request because it is overly broad, not directed at any specific factual assertion of a particular witness, and not limited in scope in order to make the request compliant with the Judges' regulations. Discovery in distribution proceedings is limited to "nonprivileged documents related to the written exhibits and testimony" contained in a party's written direct statement. *See* General Objections B, C and D. *See also Order On Motions To Compel Discovery Filed By IPG And Related Responsive Motion By MPAA*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at Exhibit C, p.1 (August 1, 2012) (denying discovery requests for documents unrelated to specific factual assertions of a witness as beyond the permissible scope of discovery). MPAA will not produce documents in response to this request.

Any and all documents underlying or used to support the following statements:

196) "CDC provided MPAA with a set of customized data reports for each of the 2010-2013 satellite royalty years."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

197) "After Dr. Gray selected sample stations for each of the 2010-2013 satellite royalty years, MPAA's counsel sent the lists of Dr. Gray's sample stations to CDC."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. MPAA also objects to this request because it mischaracterizes Ms. Martin's testimony by misquoting it in the MGC Request. A list of Dr. Gray's satellite stations was already provided to MGC as an appendix to Dr. Gray's testimony, which was included in MPAA's written direct statement. MPAA has no additional documents to produce in response to this request.

198) "CDC then analyzed each of these stations in order to determine which counties fell within the station's local service area."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

199) "[F]irst, we identified the counties that constituted each station's Designated Market Area ("DMA").

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

200) "Second, we identified the counties in which each station was deemed "significantly viewed" per the FCC."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

201) "Lastly, we looked at other factors that would qualify a county as local to the station in question."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

202) "Once CDC completed the local county analysis, I sent the results MPAA's counsel."

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

Any and all documents underlying or used to create the following exhibits:

203) Appendix A.

MPAA OBJECTION: MPAA objects to this MGC Request because MGC is subject to automatic dismissal in the Distribution Phase for failing to file a timely written direct statement that complies with the Judges' regulations and the Copyright Act. As a result, MGC is not an opposing party to MPAA in any phase of this proceeding, and is not entitled to request or receive discovery. *See* General Objection A. Subject to, and without waiving the foregoing objection, MPAA will produce documents responsive to this request to MGC should the Judges deny the Pending Motions.

Sincerely,



Lucy Holmes Plovnick
Partner of
MITCHELL SILBERBERG & KNUPP LLP

LHP/pxt

Certificate of Service

I hereby certify that on Friday, January 12, 2018 I provided a true and correct copy of the Motion To Quash Discovery Requests Of Multigroup Claimants to the following:

SESAC, Inc., represented by John C. Beiter served via Electronic Service at jbeiter@lsglegal.com

Settling Devotional Claimants (SDC), represented by Matthew J MacLean served via Electronic Service at matthew.maclean@pillsburylaw.com

Joint Sports Claimants (JSC), represented by Bryan L Adkins served via Electronic Service at Bryan.Adkins@apks.com

National Public Radio (NPR), represented by Gregory A Lewis served via Electronic Service at glewis@npr.org

American Society of Composers, Authors and Publishers (ASCAP), represented by Sam Mosenkis served via Electronic Service at smosenkis@ascap.com

Broadcaster Claimants Group (BCG) aka NAB aka CTV, represented by Ann Mace served via Electronic Service at amace@crowell.com

Multigroup Claimants (MGC), represented by Brian D Boydston served via Electronic Service at brianb@ix.netcom.com

Major League Soccer, LLC, represented by Edward S. Hammerman served via Electronic Service at ted@copyrightroyalties.com

Public Broadcasting Service (PBS) and Public Television Claimants (PTC), represented by Dustin Cho served via Electronic Service at dcho@cov.com

Broadcast Music, Inc. (BMI), represented by Joseph DiMona served via Electronic Service at jdimona@bmi.com

Canadian Claimants Group, represented by Lawrence K Satterfield served via Electronic Service at lksatterfield@satterfield-pllc.com

Spanish Language Producers, represented by Brian D Boydston served via Electronic Service at brianb@ix.netcom.com

Signed: /s/ Lucy H Plovnick